

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

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**DANIELLE DEMPSEY,**

**Plaintiff,**

**v.**

**LANCE FOSTER AND  
MILLER ENGINEERS, INC.**

**Defendants.**

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**Case No. 3:22-cv-00284**

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Miller Engineers, Inc. (hereinafter “Miller”) and Lance Foster (hereinafter “Foster”) hereby removes this action from the 441<sup>st</sup> District Court, Midland County, Texas, to the United States District Court for the Western District of Texas.

**STATE COURT LAWSUIT**

1. This case involves a Texas citizen and resident, Plaintiff Danielle Dempsey, who was allegedly injured in a motor vehicle accident. On 06-21-2021, Plaintiff filed suit against Miller and Foster in the 120<sup>th</sup> District Court, El Paso County, Texas, Cause No. 2022DCV1991, claiming that his injuries were caused by Miller and Foster’s alleged negligence.

2. Defendants now remove this case to this Court based on diversity jurisdiction.

### **GROUND FOR REMOVAL**

3. This action is removable pursuant to 28 U.S.C. § 1441. As set forth herein, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because this action is between citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4. Minimal Diversity Requirement. As alleged in the State Petition, attached hereto, this action is between citizens of different states. Upon information and belief, including the representations of Plaintiff, Plaintiff is an adult citizen and resident of Texas. **Exhibit A** at ¶ 2.1, Plaintiff's Original Petition. Miller is a citizen of a foreign state. Specifically, Miller is a New Mexico corporation with its principal place of business located at 5454 Venice Ave. NE, Ste. D, Albuquerque, New Mexico 87113. Consequently, complete diversity exists because Plaintiff is a citizen of Texas, and Miller is a citizen of New Mexico. Further, Lance Foster is also a resident of New Mexico.

5. Amount in Controversy Requirement. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff seeks damages "substantially over" \$100,000.00. **Exhibit A** at ¶ 4.2.

### **PROCEDURAL REQUIREMENTS**

6. Timeliness of Removal. This Notice of Removal is timely because it is being filed within 30 days of Miller receiving, through service or otherwise, a copy of the Plaintiff's Original Petition. 28 U.S.C. § 1446(b)(1). Miller was served through its registered agent, Rick Warren, on 07-30-21.

7. Removal to Proper Court. This Court is the appropriate court to which this action must be removed because it is part of the district and division within which this action is pending, namely, El Paso County, Texas. 28 U.S.C. §§ 1441(a), 1446(a).

8. Filing and Service. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be contemporaneously filed in the 120<sup>th</sup> Judicial District Court and served on all counsel of record.

9. Pleadings and Process. Miller and Foster have not been served with any process, pleadings, or orders in this action other than the Citation, Plaintiff's Original Petition and Plaintiff's First Amended Petition. *See* 28 U.S.C. § 1446(a). Defendants have filed Original Answers in this matter. *See* **Exhibit D.**

10. Defendants reserve all of its rights and defenses, including without limitation those rights and defenses under Fed. R. Civ. P. 12.

11. Required Documents. Pursuant to 28 U.S.C. § 1446(a), the following documents are attached:

Exhibit B: An index of documents filed in the State Court action;

Exhibit C: A copy of the docket sheet in the State Court action;

Exhibit D: A copy of each document filed in the State Court action.

Respectfully submitted,

**WATSON, CARAWAY,  
MIDKIFF & LUNINGHAM, LLP**

/s/James W. Watson

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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 16th day of August, 2022, that a true and correct copy of the foregoing document was served via e-mail on all parties in accordance with the Federal Rules of Civil Procedure.

/s/James W. Watson

James W. Watson